



House of Representatives

General Assembly

File No. 419

February Session, 2000

Substitute House Bill No. 5580

House of Representatives, April 4, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Violation Of Tree Cutting Practices.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 23-65 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (b) Any person, firm or corporation, other than a tree warden or
4 [his] deputy [, which wilfully] tree warden, who removes, prunes,
5 injures or defaces any shrub or ornamental or shade tree, within the
6 limits of a public way or grounds, without the written permission of
7 the town tree warden, the borough tree warden, the city forester, the
8 Commissioner of Transportation, the Department of Public Utility
9 Control or other authority having jurisdiction, shall be fined not more
10 than [one hundred dollars for each offense and] the replacement cost
11 of the shrub or tree, as determined by the local warden or forester or
12 authority having jurisdiction in accordance with the latest revision of
13 The Guide for Plant Appraisal, as published by the International
14 Society of Arboriculture, Urbana, Illinois, shall be liable civilly for

15 damages in any action brought by the property owner or the authority
16 having jurisdiction affected thereby and may have its development
17 permits revoked by the issuing authority if the damage to or removal
18 of the tree or shrub is related to such development.

19 Sec. 2. Section 23-59 of the general statutes is repealed and the
20 following is substituted in lieu thereof:

21 The town or borough tree warden shall have the care and control of
22 all trees and shrubs in whole or in part within the limits of any public
23 road or grounds and within the limits of his town or borough, except
24 those along state highways under the control of the Commissioner of
25 Transportation and except those in public parks or grounds which are
26 under the jurisdiction of park commissioners, and of these [he] the tree
27 warden shall take the care and control if so requested in writing by the
28 park commissioners. Such care and control shall extend to such limbs,
29 roots or parts of trees and shrubs as extend or overhang the limits of
30 any such public road or grounds. [He] The tree warden shall expend
31 all funds appropriated for the setting out, care and maintenance of
32 such trees and shrubs. [He] The tree warden shall enforce all
33 provisions of law for the preservation of such trees and shrubs and of
34 roadside beauty. [He] The tree warden shall remove or cause to be
35 removed all illegally erected signs or advertisements, placed upon
36 poles, trees or other objects within any public road or place under [his]
37 the tree warden's jurisdiction. [He] The tree warden may prescribe
38 such regulations for the care and preservation of such trees and shrubs
39 as [he] the tree warden deems expedient and may provide therein for a
40 reasonable fine [not exceeding ninety dollars in any one case] for the
41 violation of such regulations; and such regulations, when approved by
42 the selectmen or borough warden and posted on a public signpost in
43 the town or borough, if any, or at some other exterior place near the
44 office of the town or borough clerk, shall have the force and effect of
45 town or borough ordinances. Whenever, in the opinion of the tree
46 warden, the public safety demands the removal or pruning of any tree

47 or shrub under [his] the tree warden's control, [he] the tree warden
 48 may cause such tree or shrub to be removed or pruned at the expense
 49 of the town or borough and the selectmen or borough warden shall
 50 order paid to the person performing such work such reasonable
 51 compensation therefor as may be determined and approved in writing
 52 by the tree warden. Unless the condition of such tree or shrub
 53 constitutes an immediate public hazard, [he] the tree warden shall, at
 54 least five days before such removal or pruning, post thereon a suitable
 55 notice stating [his] the tree warden's intention to remove or prune such
 56 tree or shrub. If any person, firm or corporation objects to such
 57 removal or pruning, [he or it] such person, firm or corporation may
 58 appeal to the tree warden in writing, who shall hold a public hearing
 59 at some suitable time and place after giving reasonable notice of such
 60 hearing to all persons known to be interested therein and posting a
 61 notice thereof on such tree or shrub. Within three days after such
 62 hearing, the tree warden shall render [his] a decision granting or
 63 denying the application, and the party aggrieved by such decision
 64 may, [within ten days] not later than five days after such decision,
 65 appeal therefrom to the superior court for the judicial district within
 66 which such town or borough is located. The tree warden may, with the
 67 approval of the selectmen or borough warden, remove any trees or
 68 other plants within the limits of public highways or grounds under
 69 [his] the tree warden's jurisdiction [, which] that are particularly
 70 obnoxious as hosts of insect or fungus pests.

ENV Committee Vote: Yea 22 Nay 2 JFS C/R JUD

JUD Committee Vote: Yea 40 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Minimal Revenue Gain

Affected Agencies: Judicial Department

Municipal Impact: None

Explanation**State Impact:**

The change in the fine for tree cutting violations from a fine of up to \$100 to the replacement cost of the trees is anticipated to minimally increase revenue. The change in fines for violations of regulations is also anticipated to have a minimal impact. In FY 99, there were a total of 5 offenses resulting in \$150 in fines.

OLR Bill Analysis

sHB 5580

AN ACT CONCERNING VIOLATION OF TREE CUTTING PRACTICES.**SUMMARY:**

This bill expands the penalties for illegally harming a tree or shrub in a public area or way.

EFFECTIVE DATE: October 1, 2000

PENALTIES***Fines and Civil Penalties***

Current law subjects anyone, other than a tree warden or his deputy, who willfully removes, prunes, injures, or defaces a shrub or ornamental or shade tree in a public area without proper authorization to fine of up to \$100 per offense. The bill eliminates the requirement that the violation be willful and sets the fine at the replacement cost of the tree or shrub as determined by the local tree warden, forester, or appropriate authority. The determination must be made in accordance with the latest edition of *The Guide for Plant Appraisal*, published by the International Society of Arboriculture.

By law, a tree warden may adopt regulations regarding the care and preservation of trees and shrubs along town roads. The bill removes the \$90 cap on fines for violating such regulations and instead requires that the fines be reasonable. The law establishes a notice and public hearing process for the tree warden to prune or remove such trees for public safety. The bill decreases, from ten to five days, the time a person aggrieved by the tree warden's decision has to appeal to the courts.

By law, the affected property owner can sue the offender for damages.

The bill also gives the tree authority having jurisdiction this right. By law, permission to harm a tree or shrub can be issued by the tree warden, forester, the Department of Transportation, the Department of Public Utility Control or other authority having jurisdiction.

Revoking Development Permits

The bill allows the relevant issuing authority to revoke the offender's development permits if the tree damage or removal is related to the development.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 22 Nay 2

Judiciary Committee

Joint Favorable Report

Yea 40 Nay 0